

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

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STEPHEN PATTERSON,

Plaintiff,

vs

6:09-1102

CITY OF UTICA; LINDA FATATA, Individually,  
and in her official capacity as Utica Corporation  
Counsel; ROBERT PALMIERI, Individually, and  
in his official capacity as Utica Weed and Seed  
Coordinator; LOUIS CAPRI, STEVEN HAULK,  
and HIRAM RIOS, Each Individually, and in his  
official capacity as a Utica Police Office,

Defendants.  
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APPEARANCES:

OF COUNSEL:

BRIAN J. KELLOGG, ESQ.
Attorney for Plaintiff
901 East Brighton Avenue
Syracuse, New York 13205

OFFICE OF CORPORATION COUNSEL
CITY OF UTICA
Attorney for Defendants
One Kennedy Plaza
Utica, NY 13502

JOHN P. ORILIO, ESQ.

DAVID N. HURD
United States District Judge

ORDER

Defendants move to dismiss the complaint pursuant to Fed. R. Civ. P. 8(a)(2) and 12(b)(6). (Docket No. 4). Plaintiff opposes. (Docket No. 6-7). Defendants replied. (Docket No. 8). Oral argument was heard on January 22, 2010, and decision was reserved. (Docket No. 11).

The complaint is twelve pages long, and contains eight causes of action against five defendants. It complies with Rule 8(a)(2).

Assuming the material facts in the complaint are true, they give the defendants notice of the charges and the claims for relief. Further, the allegations, if true, demonstrate that defendants violated clearly established constitutional rights to be free from false arrest and/or retaliation. Pursuant to the complaint, the plaintiff may be entitled to relief, and dismissal under Rule 12(b)(6) is not warranted.

This does not, of course, eliminate the possibility that some or all of the claims may be dismissed under Rule 56 for summary judgment or by a jury after a trial.

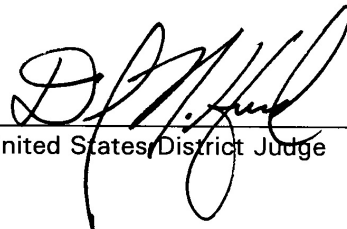
Therefore, it is

ORDERED, that

1. Defendants' motion to dismiss is DENIED; and
2. Defendants shall file an answer to the complaint on or before July 27, 2010.

IT IS SO ORDERED.

Dated: July 7, 2010
Utica, New York.



United States District Judge